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cc: order, docket, remand letter to
Los Angeles Superior Court, No. BC 521464

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

MARCO GONZALEZ,
Plaintiff,
v.
CITY OF BURBANK,
Defendant.

Case No. 2:13-cv-07732-ODW (JCGx)

**ORDER DENYING MOTION TO
DISMISS AND GRANTING
MOTION TO REMAND [9, 12]**

On October 21, 2013, Defendant City of Burbank filed the present Motion to Dismiss and Motion for More Definite Statement. (ECF No. 9.) In response, on October 25, 2013, Plaintiff Marco Gonzalez filed a First Amended Complaint (“FAC”) and an Opposition to the Motion to Dismiss. (ECF Nos. 10, 11.) Only state law claims remain in the FAC. Accordingly, Plaintiff Gonzalez also filed a Motion to Remand the case back to Los Angeles County Superior Court. (ECF No. 12.) Having carefully considered the papers filed in support of and in opposition to the instant Motions, the Court deems the matter appropriate for decision without oral argument. Fed. R. Civ. P. 78; L.R. 7-15.

Since Gonzalez has the ability to amend his pleading once as of right within 21 days of the filing of a motion to dismiss, the Court hereby **DENIES AS MOOT** Defendant City of Burbank’s Motion to Dismiss. Fed. R. Civ. P. 15(a)(1)(B). In addition, the Court **GRANTS** Plaintiff Gonzalez’s Motion to Remand because the

1 Court no longer has subject-matter jurisdiction under 28 U.S.C. § 1331. All
2 remaining hearings on this action are **VACATED**.

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4 **IT IS SO ORDERED.**

5
6 November 8, 2013

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10 **OTIS D. WRIGHT, II**
11 **UNITED STATES DISTRICT JUDGE**
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